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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/056,176	01/22/2002	Marzio Leban	10013801-1	9505

7590 03/09/2004

HEWLETT-PACKARD COMPANY
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EXAMINER

LE, HOA VAN

ART UNIT

PAPER NUMBER

1752

DATE MAILED: 03/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/056,176	LEBAN, MARZIO
	Examiner Hoa V. Le	Art Unit 1752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-31 with broadest independent claim 23 as the main invention is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 22 January 2002 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 22 January 2002.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

This application is before the examiner for consideration on the merits.

I. (1) The invention in the specification has been carefully studied.

(a) The invention is conceptual only since there is no material is reduced to practice.

(b) There are multiple groups of the claims but there is no evidence on the record that:

(i) there are two or more patentably different or distinct inventions, which would require and request for separate considerations and searches. No request of such issue on the record for a proper and timely consideration.

(ii) there may not allow more than one invention to be considered and searched at the same time unless applicant provide an evidence that there is no need for a separate consideration or search for an additional invention. Generally an additional consideration or search of an additional invention is burdensome.

Applicant is urged to provide a convincing evidence to the contrary.

(iii) Accordingly, broadest independent claim 23 is considered as the main invention. Others are secondary. No restriction or election of species is made. No separate consideration or search is made also. Should applicant shows or urges otherwise in the next response to this Office Action in order for it to be considered timely, a restriction will be made for the record as shown or urged.

II. Applicant's prior art submission filed on 22 January 2004 has been considered.

III. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 23 as the main invention, 1-22 and 24-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harris et al (US 2001/0052433), Gamo et al (5,976,725) and Kelly et al (6,268,077).

Harris et al disclose, teach and suggest a replaceable or disposable electrochemical power container comprising a fuel cell and a battery. Please see the whole disclosure of each of the applied reference, especially in Harris et al at figures 1 to 4 and their descriptions. For a portable or hand-held electrochemical size and materials and connections,...especially see Gamo et al at figures 1-10 and 13-25 and their description and Kelley et al at the figures and their description. A careful studying of the invention in the instant application unveils that no new material is discovered or applied for demonstrating or reducing to practice to be able to show or provide an unusual or unexpected result of the secondary embodiments for each of their patentability. They are considered as using the known and conventional materials with their known functional properties. Applicant is urged to provide a convincing evidence to the contrary. An argument alone may has and be given a little to no value as conceptual or supposable on as that in the specification on the record. Since the above references are related to electrochemical power containers, sizes, materials and connections, it would have been obvious to one having ordinary

skill in the art to cite or combined the known and conventional materials and their known functional properties in the absence of a convincing evidence or unusual or unexpected result for a patentability. Applicant should show or provide a convincing evidence to the contrary for the patentability of the claims.

III. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hoa V. Le whose telephone number is 571-272-1332. The examiner can normally be reached from 6:00 AM to 4:00 PM on Monday though Thursday and about the same time of most Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark F. Huff can be reached on 571-272-1385. The fax phone numbers of the examiner is 571- 273-1332. Since there is a newly electronic filing procedure for all initial communicating papers and all responses to an Office action, the examiner fax phone number is not for use to receive any fax in response to an Office action. Applicant is requested and required to send all initial communicating papers and all response to Office action to a central paper or fax receiving center for an electronic scanning procedure.

Applicants may file a paper by (1) fax with a central facsimile receiving number 703-872-9306,

(2) mail with a central mail receiving address:

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Hoa V. Le
Primary Examiner
Art Unit 1752

HVL
02 March 2004

HOA VAN LE
PRIMARY EXAMINER

